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REMARKS/ARGUMENTS

Reexamination and reconsideration of this application, withdrawal of the rejections, and formal notification of the allowability of all claims as now presented are earnestly solicited in light of the above amendments and remarks that follow.

Claims 1, 7-13, 19, and 21-28 are pending in the application. Claim 20 has been cancelled and the general subject matter of claim 20 has been incorporated into independent claims 1 and 13. Applicant respectfully requests entry of this amendment as it is believed to place the claims in condition for allowance, or at the very least, in better condition for appeal.

Claims 1, 7-10, 12, 13, 20-26, and 28 stand rejected under 35 U.S.C. §102(e) as being anticipated by previously-cited U.S. Patent No. 6,451,194 to Kloos *et al.* The Examiner alleges that Kloos teaches that PTFE can be incorporated into a polymer component such as PET. In response to Applicant's previous arguments, the Examiner notes that Kloos and other references of record disclose the use of a polyester generally, which could include biodegradable polyesters. Further, the Examiner notes that the term biodegradable is not limited to a degradation time or type of polymer and only requires that the polymer have the ability to degrade. Applicant respectfully traverses this rejection.

In order to expedite prosecution, as noted above, Applicant has amended the independent claims to list a group from which the biodegradable synthetic polymer can be selected. The list does not include any of the specific polymers set forth in the Kloos patent. The Kloos patent merely suggests certain classifications of polymers without any suggestion that the fiber-forming polymer should exhibit biodegradability. There is certainly no disclosure in the Kloos patent of any of the specific polymer types now recited in the independent claims.

The standard for anticipation is rigorous, requiring that every element of the claimed invention be disclosed by a single prior art reference. See *Minnesota Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565 (Fed.Cir. 1992); *Scripps*, 927 F.2d at 1576-77; *Lindemann Maschinenfabrik GMBH, v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed.Cir. 1984). Additionally, the allegedly anticipatory reference must describe the claimed invention "with sufficient precision and detail to establish that the subject matter existed in the prior art." *Verve LLC v. Crane Cams Inc.*, 65 USPQ2d 1051, 1054 (Fed. Cir. 2002). As

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also noted by the Federal Circuit, an anticipatory reference must "describe the applicant's claimed invention sufficiently to have placed a person of ordinary skill in the field of the invention in possession of it." *In re Spada*, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990).

Although the Kloos patent utilizes broad polymer classification terminology (e.g., "polyester"), such a disclosure is insufficient to anticipate the present invention as currently claimed. The recitation of a broad polymer class is insufficient to anticipate each and every member of the class where the classification includes numerous polymers having widely varying characteristics. Without more, the Kloos patent cannot be fairly viewed as teaching or suggesting the use of the specific biodegradable synthetic polymers set forth in the independent claims. Biodegradability is not even mentioned as a useful characteristic of the fiber-forming polymers suggested in the Kloos patent. For this reason, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claims 1 and 7-13 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,165,993 to van Anholt. The Examiner relies upon the van Anholt reference as describing PTFE particles incorporated into a yarn. Applicant respectfully traverses this rejection.

As noted above, independent claims 1 and 13 have been amended to recite a specific grouping of biodegradable synthetic polymers, none of which are mentioned in the van Anholt reference. This amendment incorporates the general subject matter of claim 20 into the independent claims, and it is noted that claim 20 was not implicated in this rejection. The van Anholt reference merely suggests incorporation of PTFE particles into wholly aromatic polyamides. As noted above in reference to the Kloos patent, Applicant respectfully submits that the van Anholt reference cannot be viewed as anticipatory of the presently claimed invention and consequently requests reconsideration and withdrawal of the rejection.

Claims 1, 7-13, 20-26, and 28 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,340,443 to Kurihara *et al.* The Examiner relies upon the Kurihara reference as disclosing a fiber made from a polyester and PTFE particles. Applicant respectfully traverses this rejection.

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As noted above, each pending independent claim has been amended to recite a specific list of biodegradable synthetic polymers, none of which are mentioned in the Kurihara patent. Instead, the Kurihara patent merely suggests use of a polyester material comprising units of ethylene terephthalate, butylene terephthalate, or ethylene naphthalate. Biodegradability is not even mentioned as a useful characteristic for the fibers described in the Kurihara patent. Thus, as discussed above in connection with the Kloos patent, it is respectfully submitted that the Kurihara patent cannot be viewed as anticipatory of the subject matter as presently claimed. In light of the foregoing, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claims 13 stands rejected under 35 U.S.C. §103(a) as being unpatentable over previously-cited U.S. Patent Nos. 5,344,707 to Snyder or 5,112,684 to Halm et al. in combination with either of the above-described Kloos or Kurihara references. The Examiner relies upon the Snyder and Halm references as disclosing a polyester fiberfill that is slickened on the surface to reduce friction. Applicant respectfully traverses this rejection.

As noted above, claim 13 has now been amended to recite a specific list of biodegradable synthetic polymers, none of which are discussed in any of the references cited in this rejection. Further, it is noted that the polymers incorporated into claim 13 were presented in claim 20, which was not implicated by this rejection. The Snyder and Halm references do not mention any of the biodegradable synthetic polymers now incorporated into claim 13. Both references discuss conventional polyester fiberfill materials. Thus, a combination of these references would not lead one of ordinary skill in the art to form a polymer using any of the biodegradable synthetic polymers recited in presently-amended claim 13. For this reason, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claim 27 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the above-described Snyder or Halm references in view of either U.S. Patent No. 6,261,677 to Tsai or U.S. Patent No. 6,411,267 to Dugan. The Examiner relies upon the Tsai and Dugan references as disclosing the use of polylactic acid and concludes that it would have been obvious to incorporate polylactic acid into the fiberfill taught by Snyder or Halm. Applicant respectfully traverses this rejection.

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The Dugan patent relied upon by the Examiner is directed to a heat bondable biodegradable fiber wherein a conventional, non-biodegradable synthetic polymer forms the exposed surface of a multicomponent fiber, thereby permitting thermal bonding of the multicomponent fiber to other fibers (see Abstract). Thus, the Dugan patent actually only suggests a fiber configuration where polylactic acid is encapsulated by a non-biodegradable polymer. Such a fiber structure would not fall within Applicants' claimed invention, which is directed to fibers wherein a biodegradable synthetic polymer forms a portion of the exposed surface of the fiber. Thus, even if Dugan were properly combinable with Snyder or Halm, which Applicant does not admit, the resulting combination would not provide the present invention because Dugan actually teaches away from incorporating a biodegradable polymer on an exposed surface of the fiber.

The combination of the Tsai patent with Snyder or Halm would similarly fail to provide the present invention. The Tsai patent is directed to a formation of a mixture of an aliphatic polyester polymer and a multicarboxylic acid for use in disposable absorbent products (see column 3, lines 46-49). As made clear in column 1 of the Tsai patent, the purpose of the fiber disclosed therein is to improve the ability of disposable absorbent products to degrade in the environment so that they can be easily disposed of by the consumer, while maintaining sufficient strength for normal use. There is no suggestion in Tsai that the fibers described therein would have any usefulness in a fiberfill application such as described in Snyder and Halm. For this reason, there would be no motivation to combine these references as suggested by the Examiner.

The same argument applies to the combination of Dugan and Snyder or Halm. Dugan is also not directed to fiberfill products. Instead, Dugan is directed to the production of thermobondable fibers for use in disposable products, such as disposable diapers. Thus, since the fiberfill of Snyder and Halm would clearly not be viewed by one of ordinary skill in the art as a disposable absorbent product of the type described in Dugan and Tsai, Applicant submits that there is no motivation in the art to modify the teaching of Snyder or Halm as required in the present rejection. For the above reasons, Applicant respectfully requests reconsideration and withdrawal of this rejection.

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Claim 21 stands rejected under 35 U.S.C. §103(a) as being unpatentable over either of the above-cited Kloos or Kurihara patents in view of the Tsai or Dugan patents. The Examiner again relies upon Dugan and Tsai as providing motivation to use PLA in the fibers disclosed in Kloos or Kurihara. Applicant respectfully traverses this rejection.


As noted above, the fiber structure taught by Dugan does not include a biodegradable synthetic fiber on an exposed surface of the fiber. For this reason, even if Dugan were properly combinable with Kurihara and Kloos, the resulting fiber would not have the configuration as presently claimed.

However, Applicant also notes that, as argued above, there would be no motivation to combine the Tsai or Dugan references with Kurihara or Kloos. The Tsai and Dugan references are directed to fibers incorporating a biodegradable polymer that would be useful in disposable absorbent products, such as diapers and wipes. The Kurihara and Kloos references are not directed to the production of disposable absorbent products. There is no suggestion in Kloos or Kurihara that the biodegradable fibers of Dugan or Tsai, which are meant for use in disposable consumer products, would be beneficial in the applications described in Kurihara or Kloos. Neither Kurihara nor Kloos are directed to improving fiber properties for disposable consumer products, and in fact neither reference even mentions the applicability of the fibers described therein for disposable products. There is simply nothing that would cause one of ordinary skill in the art to combine the teachings of Kurihara or Kloos with Tsai or Dugan. Each set of references is directed to completely different types of fibers and fiber characteristics. In light of the foregoing, Applicant respectfully requests reconsideration and withdrawal of this rejection.

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It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,


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11/29/05
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